

## **ECRI visit to Iceland in 2016, comments from the Icelandic Human Rights Centre:**

### **International legal instruments**

Iceland has not ratified Protocol No. 12 to the European Convention on Human Rights (ECHR) and the European Social Charter (Revised). Neither has Iceland ratified the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages, the UNESCO Convention against Discrimination in Education, the European Convention on the Legal Status of Migrant Workers, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their

Iceland has ratified the Convention on Cybercrime but not its' Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

Icelandic authorities have not yet incorporated other human rights instruments than the ECHR and CRC into domestic legislation.

No provisions specifically prohibiting racial discrimination have been added to the Icelandic Constitution.

Information on the extent to which the persons so entitled have exercised their voting right in practice at municipal elections is not available and few measures have been taken to raise awareness among non-citizens of these rights.

### **Criminal law provisions**

The criminal law provisions in force against racism and racial discrimination, and notably those that prohibit racial discrimination (Section 180 of the Criminal Code) and incitement to racial hatred (Section 233a of the Criminal Code) have not been applied since ECRI's last report. There do not seem to have been made any comprehensive efforts to better research the reasons behind the apparent unwillingness of victims to report cases, including the role that the actors of the criminal justice system may play in this respect, nor have there been any awareness raising campaigns among the general public and minority groups of the legislation in force against racism and racial discrimination. There is still lack of comprehensive civil and administrative provisions against discrimination, since neither have the EC Directives on discrimination (2000/78/EC and 2000/43/EC) been implemented nor have any other proposals on legislation against discrimination been presented.

As far as we know, the Icelandic authorities have not yet followed ECRI's recommendation to strengthen their efforts to ensure that all those involved in the criminal justice system are equipped with thorough knowledge of the provisions in force against racism and racial discrimination and fully aware of the need to actively and thoroughly counter all manifestations of these phenomena.

Icelandic authorities have not yet introduced a criminal law provision that expressly considers the racist motivation of an offence as a specific aggravating circumstance.

### **Civil and administrative law provisions**

Although scattered civil and administrative provisions covering discrimination in certain fields exist, there is still no comprehensive civil and administrative body of anti-discrimination legislation in Iceland covering all fields of life.

The two EU Directives on equal treatment (Directive 2000/43/EC and Directive 2000/78/EC) have not yet been transposed into Icelandic law, even if the Icelandic authorities have expressed their intention to do so.

### **Specialised bodies and other institutions**

Iceland has not yet established a specialised body to combat racism and racial discrimination.

The Icelandic Human Rights Centre has an agreement with the Ministry of the Interior for an annual financial contribution valid throughout 2018. There is no mention of the Centre in the State Budget (law on the State Budget). The Centre also has a service agreement with the Ministry of Foreign Affairs, both for specific projects and for daily operations as well as a service agreement with the Ministry of Welfare for legal counselling for immigrants to Iceland. The funds do however not guarantee the Centre's independence and effectiveness, funds have also to be sought elsewhere.

Human rights organisations can also receive funding from the Ministry of the Interior, on the basis of project proposals submitted to the Ministry.

### **Education and awareness-raising**

Much more effort is needed.

### **Citizenship**

As it generally takes months to process applications on Icelandic Citizenship, applicants may suffer a long period of worry and anxiousness. The Act on Citizenship leads to people being rejected for citizenship due to minor fines or for owing taxes or having financial difficulties. Immigrants also have to pass a language test to measure their command of the Icelandic language.

### **Asylum seekers**

#### **Unaccompanied minors**

#### **Access to education**

Since the onset of the financial crisis, municipalities cut down funding to the teaching of native/mother tongues. As far as we know, this situation has not improved since ECRI's last visit.

A recent study conducted by the Multicultural and Information Centre shows markedly higher dropout rates for immigrant children in upper secondary schools. Even if steps have been taken by the Ministry of Education to reverse this situation, more effort and comprehensive measures are needed.

#### **Access to other services**

Complicated rules, a system which people do not understand and does not work for all, is something many immigrants complain about.

- Immigrants who receive rehabilitation benefits /and or invalidity pension have little means, most of them only receive minimal benefits due to their short stay in the country.
- Immigrants who do not have a family network to rely on are in a worse position than those who do.
- Some do not seek aid from social services. Seeking such aid from their local municipalities is the last resort as it can negatively affect the renewal of their applications for a residence permit and/or Icelandic citizenship. There are exception clauses regarding social aid in the Act on Foreigners, but most immigrants are unfamiliar with them and afraid to risk accepting financial aid from social services.
- After the financial crisis, an increased number of immigrants sought assistance of charity organizations that distribute food, clothes and even money. There has not been a marked decrease to this number.

### **Employment**

Comparing the unemployment figures of foreign citizens with those of native Icelanders shows that, until the present economic crisis, foreign citizens on the Unemployment Roster, were relatively fewer than Icelanders.. Unfortunately, the development since the crisis has been reversed, the number of immigrants on the Unemployment Roster at the end of June 2015, is 19% as opposed to 2,6% overall unemployment rate among Icelanders.

### **Residence permits**

In order to obtain a residence permit, an applicant must submit proof of sufficient financial sustenance. It is not possible to apply for a permanent residence permit unless having had residence permit on the same premises (grounds) for four years prior to the application. If the premises on which the permits are based change and, for instance, a spousal (family reunification) permit is needed, then a new four year period starts, prolonging the time requirements for an application for a permanent residence permit. There are examples of immigrants who have worked here far longer than 4 years and are still not eligible for unemployment benefits due to changes in their residence status during the period.

On August 24 2015, a Cross-Party Parliamentary Committee presented their proposal for amendments to the Act on Foreigners. The proposal suggests many positive amendments, including a person being able to apply for a permanent residence after having had an eligible permit for 4 years, regardless of whether or not they switched permit types (f.ex. from humanitarian permit to family reunification permit etc.). Hopefully, this proposal will be approved by the Parliament.

### **Unemployment benefits**

Non-EEA citizens who do not have a permanent residence permits are not eligible for unemployment benefits.

- Of a registered total of industrial accidents in 2008, approximately 25% happened to foreign citizens even though they only count as 9 % of the total workforce.
- Immigrants claim that attitudes have changed; many sense more hostility towards to them.

There have been cases of immigrants being told in job interviews that they would have been hired had they been of Icelandic origin. People do not want to complain since that could damage their possibilities of future employment.

## **Vulnerable groups**

### **Immigrant women**

In 2011, the Center for Gender Equality issued a pamphlet intended for immigrant women in abusive relationships, informing them of their rights. Little else has been done to inform immigrant women of their rights (useful information can however be found on the Multicultural and Information Centre's website). More has been done to provide them with opportunities to learn the Icelandic language, though many are hard to reach. NGO's have made efforts to reach immigrant women and to further their participation in society, although more must certainly be done.

The situation of immigrant women who are victims of domestic violence has not improved in later years. Last year over 24% of all women seeking counselling and assistance from the Women's Shelter in Reykjavík and 22% of all women staying at the shelter were immigrant women. An amendment was made to the Act on Foreigners to the effect that if immigrants, who have not yet obtained a permanent residence permit, end their marriage or cohabitation due to violence on behalf of their partners, their permit may be extended if special circumstances apply. However, both violence and special circumstances have to be established in order for the permit to be extended.

A study conducted by the Multicultural and Information Centre and the Icelandic Human Rights Centre, shows that immigrants are less likely to have full custody of their children than Icelanders. This is not true as regards court rulings, but for those who divorce through regular channels, the situation is that it is more common for the Icelandic parent to have full custody of the child than if both parents are Icelandic. Not all District Commissioners provide interpretation services when people with little or no knowledge of Icelandic or English sign legal documents like Custodial agreements.

### **Muslims**

Reykjavík City allotted the Muslim Congregation a ground to build a mosque. This caused quite a bit of turmoil in society and when, before the Municipal Election, the Progressive Party announced that they were going to revoke the permit should they come into power after the election, the party seems to have gained some additional following due to this declaration.

### **Antisemitism**

#### **Media**

If a foreigner is suspected to have committed a crime, his nationality is disclosed in some media, although it bears no relevance to the case.

#### **Conduct of law enforcement officials**

As far as we know little overall effort has been taken to provide law enforcement officials with good quality training in human rights and non-discrimination, and to raise their sensitivity to cultural diversity in dealing with people of different backgrounds. However, some efforts have been taken by individual police chiefs for educating their police force on immigrant issues.

An independent mechanism, separate from police structures, for investigating allegations of police misconduct, including racist or racially discriminatory behaviour has not been established although a committee on how and who should handle complaints and charges against the police, established by the Ministry of the Interior, will be delivering their report soon.

### **Monitoring the situation**

Statistics Iceland has database that makes it much easier to access data on immigrants in Iceland.

More research on the immigrant situation within respective systems needs to be carried out. For example, so far it has not been possible to know how many people of immigrant origin are unemployed due to all data on individuals being categorized by citizenship but not by their country of origin.

### **Icelandic language tests for applicants for Icelandic citizenship.**

The purpose of the legislation is to integrate foreigners.

The individuals who are most likely to fail the test are immigrants from South Asia.

There seems to be case of double or triple discrimination i.e.; origin, gender and little or no education.

### **Icelandic courses Icelandic citizenship and illiteracy.**

Immigrants with little or no formal education have to be taken into special consideration. Courses for illiterate people are few, nearly always in the Reykjavík area and not held on a regular basis.

In the regulation on how the Icelandic language exam should be conducted and on what grounds exceptions are to be made, it is clearly stated; *that a specialist can confirm that an applicant cannot pass an exam because of physical or mental reasons*. It is also stated that special assistance will not be provided for those who cannot read or write the Latin alphabet if it is possible/likely that they could acquire those skills with traditional means. There have been complaints that this stipulation has been interpreted very narrowly, so that illiterate people or people who cannot read or write the Latin alphabet have not been given an exception even if their circumstances merit one. Since there are many immigrants, especially women, from South East Asia in Iceland, it is necessary to develop new teaching methods aimed at the heart of this group, that is the illiterate or semi-illiterate who are unable to acquire reading and language skills in a manner that allows them to maintain their full human dignity. There are hardly any courses available that meet the needs of this very vulnerable group. Teaching methods and different approaches must be developed before demands are made by the authorities for them to pass exams that are, in no uncertain manner, discriminating. It may be gathered from existing data on these exams, that origin and native language play a role in excluding people from being granted citizenship.

The children of these women are especially vulnerable as they enter the Icelandic educational system fluent in neither language, and studies clearly show their disadvantage from an early start. PISA studies have shown that immigrant children in Iceland have significant lower scores than the average. This is especially the case when the mother has little education and comes from a different cultural background.